

**Office of Professional Accountability
MEDIATION PROGRAM
Summary for the Police Accountability Review Panel
August 15, 2007**

History

Judge Terrence Carroll served as the Independent Auditor of Internal Investigations for the Seattle Police Department from 1992 through 2002. In his public reports, Judge Carroll advocated vigorously for mediation as an alternative to the normal complaint investigation process. A professional mediator himself, Judge Carroll recognized that many complaints from community members about police conduct could be resolved successfully if the parties had the opportunity to sit down in a neutral, non-confrontational and confidential environment.

The Office of Professional Accountability (OPA) was easily persuaded of the potential mediation held for greater citizen and officer satisfaction. Its proposal for a mediation program was negotiated with the Seattle Police Officers Guild, and in August 2005, mediation was added as an alternative to traditional complaint investigation. Participants in the mediation program to date have rated it as highly successful and beneficial to improving police/community relations.

The Shortcomings of Traditional Complaint Investigation

The traditional complaint investigation system is not always the best way to resolve complaints made by citizens about police conduct. For one thing, not every citizen with a complaint against a police officer wants to see the officer punished. Some complainants want to understand why an officer took a particular action, or to be able to explain their own actions.

At the same time, accused officers often feel that decisions and actions they made in a tense situation are being examined by others who were not in their shoes, and with the improved vision provided by hindsight.

With the traditional complaint investigation, the parties most affected are frequently left dissatisfied and sometimes embittered by the process. Opportunities for communication, insight, and deeper understanding are lost.

The Mediation Alternative

By contrast, mediation is a simple, direct process that allows officers and citizens to share their perspectives of an incident. The process is facilitated by an experienced third-party in a neutral, confidential environment. The mediator

helps participants talk and listen to each other, and to resolve their conflicts in constructive ways.

The session offers officers and citizens an opportunity to hear how their actions affected each other. It can make a real difference in the understanding, attitude, and behavior of participants. Further, it gives the officers and citizens the power to resolve their issues themselves, rather than to depend on the judgment of others.

Case Selection

The Department has full discretion to determine whether or not mediation of a complaint is appropriate. The OPA Director's Office identifies complaints as appropriate candidates for mediation.

Generally, mediation is approved for cases where there is potential for: (1) greater complainant satisfaction; (2) increased understanding of police practices and procedures; (3) improved officer conduct by understanding how actions are perceived and the impact they have; and (4) improved relationships between the community and the police.

Voluntary Participation

Mediation is entirely voluntary: both the citizen and officer must agree to participate. If a complaint is selected for mediation, the OPA notifies the complainant and attempts to secure a commitment to participate. If the complainant agrees to participate in mediation, OPA then notifies the officer and determines whether the officer is willing to participate. Where both parties have agreed, the OPA works with the citizen, officer, and the mediators to schedule the mediation at the earliest convenient opportunity.

Confidentiality

Maintaining confidentiality is critical to the success of mediation. It is important for the parties to understand that nothing they say in mediation can be used against them later. Each party can communicate without fear that their comments will subject them to discipline, retribution, or blame.

Mediation Outcomes

The goal in police-citizen mediation is about getting people to talk, listen, and understand each other's point of view. The parties are not required to reach a formal resolution, nor are they forced to apologize or shake hands and make up.

Mediation diverts a complaint from the complaint investigation and discipline process. If the citizen and officer agree to mediate, the complaint will not result in discipline and will not be recorded on the employee's complaint history.

This creates an obvious incentive for officers to agree to mediate complaints made against them. The benefit to the Department and the community is that the mediation process holds greater promise for positively influencing officer conduct and attitudes.

Cases Selected for Mediation August to December 2005

From August through December 2005, after the program was initiated, the OPA Director selected sixteen cases for mediation. The status of the 16 selected cases is as follows:

Mediation Completed	-	3
Citizen refused mediation	-	7
Employee refused mediation	-	2
Other ¹	-	4

Cases Selected for Mediation January to December 2006

From January through December 2006, the OPA Director selected thirty-four cases for mediation. Of the thirty-four, thirteen (39%) were actually mediated. The status of the 34 selected cases is as follows:

Mediation Completed	-	13
Mediation Scheduled then Canceled ²	-	3
Citizen refused mediation	-	10
Employee refused mediation	-	5
Other ³	-	3

¹ One complainant could not be reached; one complainant had moved out of state; one complainant refused to discuss any issues surrounding her complaint; and, one complainant failed to show for a scheduled mediation session.

² One complainant changed their mind and elected to not participate after talking with friends; one complaint advised after initial agreement and employee agreement that his attorney had advised against participation and withdrew from the process; and one complainant was deployed on military assignment and elected to discontinue his involvement in the process. All complainants were advised that the cancellation would result in the complaint being closed with no further action.

³ One complainant could not be reached; one complainant wanted to both mediate and have the complaint completely investigated with discipline being a possible outcome; and one employee

Cases Selected for Mediation January to August 2007

From January to August 2007, the OPA Director selected twenty-one cases for mediation. Five (24%) have been mediated and nine (43%) are pending. If mediation is completed in the 9 pending cases and the current rate of cases assigned to mediation continues, we will easily surpass the total cases mediated in 2006.

The status of the 21 selected cases is as follows:

Mediation Completed	-	5
In Process	-	9
Mediation Scheduled then Canceled ⁴	-	1
Citizen refused mediation	-	3
Employee refused mediation	-	2
Other ⁵	-	1

Conclusion

To date, the OPA mediation program has relied on the pro-bono support of Judge Carroll and Judicial Dispute Resolution. Their support and commitment of time and expertise has added immeasurably to the program's success. As the current OPA Director is committed to expanding mediation opportunities, it is understood that additional pro-bono or paid mediators will be required.

We also continue to share our success with other agencies and the program has been cited as a "best practice" in numerous discussions. While the raw numbers appear low, the implementation of this program has been instrumental in furthering our efforts of transparency, outreach to the community, alternative conflict resolution, and to further "demystify" the issues of police culture.

For many citizens who bring complaints and concerns to OPA, and for the officers who are the subject of the complaints, mediation provides a more immediate, effective, and gratifying alternative. Both parties can walk away feeling understood, and understanding more themselves about how their words, actions, and attitudes impact others.

was no longer with the department having left between the date of the alleged misconduct and the complaint.

⁴ One complaint advised after initial agreement and employee agreement that his attorney had advised against participation and withdrew from the process; the complainant was advised that the cancellation would result in the complaint being closed with no further action.

⁵ One complainant could not be reached.